

1                   IN THE UNITED STATES DISTRICT COURT  
2                   FOR THE MIDDLE DISTRICT OF NORTH CAROLINA

3                   UNITED STATES OF AMERICA,

Criminal Action

No. 1:07CR412-1

4                   Plaintiff,

5                   vs.

Greensboro, North Carolina

6                   MARKO RUDI,

December 15, 2009

7                   Defendant.

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10                  TRANSCRIPT OF MOTION PROCEEDINGS

11                  BEFORE THE HONORABLE N. CARLTON TILLEY, JR.

12                  UNITED STATES DISTRICT JUDGE

13                  APPEARANCES:

14                  For the Government:       ROBERT HAMILTON, ESQUIRE  
15   Assistant United States Attorney  
16   Post Office Box 1858  
17   Greensboro, North Carolina 27402

18                  For the Defendant:       CHRISTOPHER CLIFTON, ESQUIRE  
19   Grace, Tisdale and Clifton  
20   301 North Main Street  
21   Suite 1200  
22   Winston-Salem, North Carolina 27101

23                  Court Reporter:           J. Calhoun, RPR  
24   Room 101, U.S. Courthouse Building  
25   324 West Market Street  
   Greensboro, North Carolina 27401  
   (336) 332-6033

Proceedings reported by stenotype reporter.  
Transcript produced by computer-aided transcription.

1 (Defendant is present.)

2 THE COURT: Mr. Hamilton.

3 MR. HAMILTON: May I call the next case, Your  
4 Honor, United States versus Marko Rudi, 1:07CR412. Your  
5 Honor, we're here for purposes of a motion to withdraw.  
6 Mr. Rudi is present, along with attorneys David Long and  
7 Mr. Chris Clifton, Your Honor.

8                   THE COURT: Mr. Long, perhaps I should hear from  
9 you first on this, your motion. Mr. Rudi, you and  
10 Mr. Clifton may be seated while I hear from Mr. Long.

11 MR. LONG: Thank you, Your Honor. Good morning.  
12 I hate to be here.

13 THE COURT: Well, we're glad to see you here.

14                   MR. LONG: I'm glad to see you here, but I'm not  
15 happy to see you on this motion.

16 On September 28 -- I'm just going to give you a  
17 little chronology. I've got to be a neutral here to the  
18 extent I can, but I just want to go through a summary of the  
19 important dates, just so you will have that information.

THE COURT: Okay.

21 MR. LONG: Mr. Rudi, the first meeting I have  
22 notes, I met with him September 28, 2005. We had our first  
23 engagement letter on November 14, 2005. October 3, 2006,  
24 there was an engagement letter prepared for my law firm to  
25 RTI and two representatives of RTI who are here today in

1       court. October 12th, 2006, RTI signed this engagement  
2 letter with waiver language in it about continuing my  
3 representation of Mr. Rudi.

4                  I understand from Mr. Howard today, that they do  
5 not contest that waiver. October 16, 2006, I instituted a  
6 screen, screening me from RTI and the attorneys who were  
7 doing employment law work for RTI, so I screened myself and  
8 my secretary from our employment law attorneys who were  
9 dealing with RTI. That screen has remained in effect  
10 throughout, so I knew nothing about RTI, and the attorneys  
11 representing RTI knew nothing about my involvement with  
12 Mr. Rudi, other than the fact that the dual representation  
13 existed.

14                  November 20, 2009, my managing partner came to me  
15 and indicated that there was some concern on the part of RTI  
16 about my continued involvement in the representation of  
17 Mr. Rudi. The victim is RTI. Mr. Rudi was an employee of  
18 RTI at the time of the events that we'll be discussing in  
19 this case.

20                  At that time, I realized I had a material  
21 limitation under Rule 1.7 of North Carolina Rule of  
22 Professional Responsibility, in two respects: Number one,  
23 my ability to represent Mr. Rudi effectively, with RTI  
24 having raised the concern as a client of my law firm.

25                  Number two, I was concerned about my ability to

1 represent Mr. Rudi, adverse to RTI, when I could possibly be  
2 more of a hinderance or a liability than an asset to him in  
3 that representation.

4 I think on those two levels, I have a material  
5 limitation on my ability to continue to represent Mr. Rudi,  
6 and I'll be happy to answer any questions, but I think that  
7 is the sum and substance of this motion.

8 THE COURT: Thank you, sir.

9 Mr. Howard, do you wish to be heard?

10 MR. HOWARD: Your Honor, thank you. No, sir. In  
11 the month since I last seen you, I should be clear, I have  
12 left the Government and have gone in-house at RTI, and been  
13 working with Mr. Hamilton on this case, as representing the  
14 victim in the matter.

15 THE COURT: Thank you.

16 Mr. Clifton, do you wish to be heard?

17 MR. CLIFTON: No, sir.

18 THE COURT: Mr. Rudi, I'll be glad to hear  
19 anything that you would like to say.

20 THE DEFENDANT: Well, I guess all I wanted to say,  
21 I'm opposing the withdrawal of Mr. Long. I've engaged  
22 Mr. Long four years ago. I've invested time, money with  
23 him. This situation was known to RTI for four years, longer  
24 than four years, so the so-called conflict surfaced only  
25 given circumstances when RTI gained some information, so I'm

1 not sure why -- to be honest, I don't understand the  
2 substance of the conflict and where it's coming from and  
3 that's the reason why I was opposed to it.

4 THE COURT: Anything else?

5 THE DEFENDANT: No. That's it.

6 THE COURT: I do not know what financial  
7 arrangements had been made. I don't really think at this  
8 point that's a concern of the Court. That may be something  
9 to be reconciled between the two of you.

10 MR. LONG: Absolutely, Your Honor. Absolutely.

11 THE COURT: I do understand Mr. Long's assessment  
12 of a conflict and material limitation. I have been in  
13 similar positions before as an attorney, and I think that is  
14 a very reasonable assessment, and for that reason, I am  
15 going to allow his motion to withdraw, especially  
16 considering the fact that you have excellent attorneys in  
17 place otherwise, so it's not leaving you unrepresented.

18 Anything further?

19 MR. LONG: Nothing further for me, Your Honor.

20 THE COURT: Thank you for being here.

21 MR. HAMILTON: Your Honor, nothing further on this  
22 motion, but since all of the parties are here, I was  
23 wondering if I could discuss a scheduling matter.

24 THE COURT: I'll certainly be glad to have you  
25 state that.

1                   MR. HAMILTON: Your Honor, as you know, the  
2 defense requested a continuance in this matter until the  
3 April term, which was granted by Judge Shroeder, and we  
4 agreed to that continuance. Your Honor, since that time, my  
5 case agent has contacted me. He is now stationed overseas  
6 in the Philippines. He is expecting his first child in  
7 early March, and he's been advised to seek medical treatment  
8 in a country other than the Philippines, which has further  
9 complicated his issue which might otherwise be complicated.  
10 Your Honor, we would like to have him have time to have his  
11 first child, spend some time with the child, and then also  
12 arrive here perhaps -- or a little bit of time to help  
13 prepare for trial, so we're fine with the April setting, but  
14 we wanted to put the Court on notice that the Government  
15 would request a setting either perhaps late in April or  
16 early in May, just to make sure to accommodate the case  
17 agent, who is stationed overseas.

18                  THE COURT: Mr. Clifton, do you have a response  
19 with regard to that? Would you like to speak to Mr. Rudi  
20 about it before?

21                  MR. CLIFTON: Mr. Rudi and I have actually spoken  
22 about this potential issue before today. I thought that  
23 discovery might try to push it back. What I would say is,  
24 we certainly don't want to impair the ability of this agent  
25 to see his child born, but we hoped that we could come up

1       with a firm date, because Mr. Rudi has been in custody now  
2       close to a year and a half. He's not eligible for bond in  
3       the U.S. because he has no citizen status, which hurts him  
4       even more.

5                 If the Court would allow Mr. Hamilton to come up  
6       with a firm date and offer that to the Court instead of  
7       saying late April, early May.

8                 THE COURT: How long will it take you to do that?

9                 MR. HAMILTON: Not very long, Your Honor.

10                MR. CLIFTON: Long enough for me -- I would hope  
11       by the end of this week. Long enough for me to look at my  
12       schedule.

13                THE COURT: Why don't you let us know by the first  
14       of next week.

15                MR. CLIFTON: Okay.

16                MR. HAMILTON: Thank you, Your Honor.

17                THE COURT: Thank you.

18                (This matter was concluded.)

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1 C E R T I F I C A T E  
23 I, J. CALHOUN, RPR, United States District Court  
4 Reporter for the Middle District of North Carolina, DO  
5 HEREBY CERTIFY6  
7 That the foregoing is a true and correct transcript  
8 of the proceedings had in the within-entitled action; that  
9 I reported the same to typewriting through the use of  
10 Computer-Aided Transcription.11 THIS TRANSCRIPT CERTIFICATION IS VOID, IF THE  
12 SIGNATURE IS NOT ORIGINALLY SIGNED BY THE COURT  
13 REPORTER WHO REPORTED THIS MATTER.

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Date: 9-14-10

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